

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 861

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Linda M. Lopez

AN ACT

RELATING TO LAW ENFORCEMENT; REQUIRING SEX OFFENDERS TO PROVIDE
DNA SAMPLES WHEN REGISTERING; INCLUDING SEX OFFENDERS AS
COVERED OFFENDERS SUBJECT TO COLLECTION OF DNA SAMPLES; MAKING
AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-11A-4 NMSA 1978 (being Laws 1995,
Chapter 106, Section 4, as amended) is amended to read:

"29-11A-4. REGISTRATION OF SEX OFFENDERS-- INFORMATION
REQUIRED-- CRIMINAL PENALTY FOR NONCOMPLIANCE. --

A. A sex offender residing in this state shall
register with the county sheriff for the county in which the
sex offender resides.

B. A sex offender who is a current resident of New
Mexico shall register with the county sheriff no later than ten

underscored material = new
[bracketed material] = delete

1 days after being released from the custody of the corrections
2 department or being placed on probation or parole. A sex
3 offender who changes his residence to New Mexico shall register
4 with the county sheriff no later than ten days after
5 establishing residence in this state. When a sex offender
6 registers with the county sheriff, he shall provide the
7 following registration information:

8 (1) his legal name and any other names or
9 aliases that he is using or has used;

10 (2) his date of birth;

11 (3) his social security number;

12 (4) his current address;

13 (5) his place of employment;

14 (6) the sex offense for which he was
15 convicted; and

16 (7) the date and place of his sex offense
17 conviction.

18 C. A sex offender who is a resident of another
19 state but who is employed in New Mexico or attending school in
20 New Mexico shall register with the county sheriff for the
21 county in which the sex offender is working or attending
22 school.

23 D. A sex offender who is a resident of another
24 state but who is employed in New Mexico or attending school in
25 New Mexico shall register with the county sheriff no later than

underscored material = new
[bracketed material] = delete

1 ten days after beginning work or school. When the sex offender
2 registers with the county sheriff, he shall provide the
3 following registration information:

4 (1) his legal name and any other names or
5 aliases that he is using or has used;

6 (2) his date of birth;

7 (3) his social security number;

8 (4) his current address in his state of
9 residence and, if applicable, the address of his place of
10 lodging in New Mexico while he is working or attending school;

11 (5) his place of employment or the name of the
12 school he is attending;

13 (6) the sex offense for which he was
14 convicted; and

15 (7) the date and place of his sex offense
16 conviction.

17 E. When a sex offender registers with a county
18 sheriff, the sheriff shall obtain:

19 (1) a photograph of the sex offender and a
20 complete set of the sex offender's fingerprints; [and]

21 (2) a description of any tattoos, scars or
22 other distinguishing features on the sex offender's body that
23 would assist in identifying the sex offender;

24 (3) a DNA sample for insertion into the DNA
25 identification system as a covered offender pursuant to the

. 145766. 1

underscored material = new
[bracketed material] = delete

1 provisions of the DNA Identification Act; and

2 (4) a DNA collection fee of one hundred
3 dollars (\$100). The fee shall be deposited in the DNA
4 identification system fund.

5 F. When a sex offender who is registered changes
6 his residence within the same county, the sex offender shall
7 send written notice of his change of address to the county
8 sheriff no later than ten days after establishing his new
9 residence.

10 G. When a sex offender who is registered changes
11 his residence to a new county in New Mexico, the sex offender
12 shall register with the county sheriff of the new county no
13 later than ten days after establishing his new residence. The
14 sex offender shall also send written notice of the change in
15 residence to the county sheriff with whom he last registered no
16 later than ten days after establishing his new residence.

17 H. Following his initial registration pursuant to
18 the provisions of this section:

19 (1) a sex offender required to register
20 pursuant to the provisions of Subsection D of Section 29-11A-5
21 NMSA 1978 shall annually renew his registration with the county
22 sheriff prior to December 31 of each subsequent calendar year
23 for a period of twenty years; and

24 (2) a sex offender required to register
25 pursuant to the provisions of Subsection E of Section 29-11A-5

. 145766. 1

underscored material = new
[bracketed material] = del ete

1 NMSA 1978 shall annually renew his registration with the county
2 sheriff prior to December 31 of each subsequent calendar year
3 for a period of ten years.

4 I. A sex offender who willfully fails to comply
5 with the registration requirements set forth in this section is
6 guilty of a fourth degree felony and shall be sentenced
7 pursuant to the provisions of Section 31-18-15 NMSA 1978.

8 J. A sex offender who willfully provides false
9 information when complying with the registration requirements
10 set forth in this section is guilty of a fourth degree felony
11 and shall be sentenced pursuant to the provisions of Section
12 31-18-15 NMSA 1978. "

13 Section 2. Section 29-11A-5 NMSA 1978 (being Laws 1995,
14 Chapter 106, Section 5, as amended) is amended to read:

15 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
16 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN
17 THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

18 A. A county sheriff shall maintain a local registry
19 of sex offenders in his jurisdiction required to register
20 pursuant to the provisions of the Sex Offender Registration and
21 Notification Act.

22 B. The county sheriff shall forward:
23 (1) registration information obtained from sex
24 offenders to the department of public safety. The initial
25 registration information and any new registration information

underscored material = new
[bracketed material] = delete

1 subsequently obtained from a sex offender shall be forwarded by
2 the county sheriff no later than ten working days after the
3 information is obtained from a sex offender. If the department
4 of public safety receives information regarding a sex offender
5 from a governmental entity other than a county sheriff, the
6 department shall send that information to the county sheriff
7 for the county in which the sex offender resides;

8 (2) samples of DNA obtained from sex offenders
9 to the DNA identification system's administrative center for
10 insertion into the DNA identification system as a covered
11 offender; and

12 (3) collected fees to the department of public
13 safety for deposit into the DNA identification system fund.

14 C. The department of public safety shall maintain a
15 central registry of sex offenders required to register pursuant
16 to the provisions of the Sex Offender Registration and
17 Notification Act. The department shall participate in the
18 national sex offender registry administered by the United
19 States department of justice. The department shall send
20 conviction information and fingerprints for all sex offenders
21 registered in New Mexico to the national sex offender registry
22 administered by the United States department of justice and to
23 the federal bureau of investigation.

24 D. The department of public safety shall retain
25 registration information regarding sex offenders convicted for

. 145766. 1

underscored material = new
[bracketed material] = delete

1 the following sex offenses for a period of twenty years
2 following the sex offender's conviction, release from prison or
3 release from probation or parole, whichever occurs later:

4 (1) criminal sexual penetration in the first
5 or second degree, as provided in Section 30-9-11 NMSA 1978;

6 (2) criminal sexual contact of a minor in the
7 third degree, as provided in Section 30-9-13 NMSA 1978;

8 (3) sexual exploitation of children, as
9 provided in Subsection A, B or C of Section 30-6A-3 NMSA 1978;

10 (4) kidnapping, as provided in Section
11 30-4-1 NMSA 1978, when the victim is less than eighteen years
12 of age and the offender is not a parent of the victim; or

13 (5) attempt to commit any of the sex offenses
14 set forth in Paragraphs (1) through (4) of this subsection, as
15 provided in Section 30-28-1 NMSA 1978.

16 E. The department of public safety shall retain
17 registration information regarding sex offenders convicted for
18 the following offenses for a period of ten years following the
19 sex offender's conviction, release from prison or release from
20 probation or parole, whichever occurs later:

21 (1) criminal sexual penetration in the third
22 or fourth degree, as provided in Section 30-9-11 NMSA 1978;

23 (2) criminal sexual contact in the fourth
24 degree, as provided in Section 30-9-12 NMSA 1978;

25 (3) criminal sexual contact of a minor in the

underscored material = new
[bracketed material] = delete

1 fourth degree, as provided in Section 30-9-13 NMSA 1978;

2 (4) sexual exploitation of children by
3 prostitution, as provided in Section 30-6A-4 NMSA 1978;

4 (5) false imprisonment, as provided in Section
5 30-4-3 NMSA 1978, when the victim is less than eighteen years
6 of age and the offender is not a parent of the victim;

7 (6) solicitation to commit criminal sexual
8 contact of a minor in the third or fourth degree, as provided
9 in Sections 30-9-13 and 30-28-3 NMSA 1978; or

10 (7) attempt to commit any of the sex offenses
11 set forth in Paragraphs (1) through (5) of this subsection, as
12 provided in Section 30-28-1 NMSA 1978.

13 F. The department of public safety shall adopt
14 rules necessary to carry out the provisions of the Sex Offender
15 Registration and Notification Act. "

16 Section 3. Section 29-11A-5.1 NMSA 1978 (being Laws 1999,
17 Chapter 19, Section 8, as amended) is amended to read:

18 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING
19 CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY
20 NOTIFICATION--INTERNET WEB SITE. --

21 A. If a sex offender is convicted of one of the
22 following sex offenses, the county sheriff shall forward
23 registration information obtained from the sex offender to the
24 district attorney for the judicial district in which the sex
25 offender resides and, if the sex offender is a resident of a

. 145766. 1

underscored material = new
[bracketed material] = delete

1 municipality, the chief law enforcement officer for the
2 municipality in which the sex offender resides:

3 (1) criminal sexual penetration in the first
4 or second degree, as provided in Section 30-9-11 NMSA 1978;

5 (2) criminal sexual contact of a minor in the
6 third or fourth degree, as provided in Section 30-9-13 NMSA
7 1978;

8 (3) sexual exploitation of children, as
9 provided in Subsection A, B or C of Section 30-6A-3 NMSA 1978;

10 (4) sexual exploitation of children by
11 prostitution, as provided in Section 30-6A-4 NMSA 1978; or

12 (5) attempt to commit any of the sex offenses
13 set forth in Paragraphs (1) through (4) of this subsection, as
14 provided in Section 30-28-1 NMSA 1978.

15 B. A person who wants to obtain registration
16 information regarding sex offenders described in Subsection A
17 of this section may request that information from the:

18 (1) county sheriff for the county in which the
19 sex offenders reside;

20 (2) chief law enforcement officer for the
21 municipality in which the sex offenders reside;

22 (3) district attorney for the judicial
23 district in which the sex offenders reside; or

24 (4) secretary of public safety.

25 C. Upon receiving a request for registration

underscored material = new
[bracketed material] = delete

1 information regarding sex offenders described in Subsection A
2 of this section, the county sheriff, chief municipal law
3 enforcement officer, district attorney or secretary of public
4 safety shall provide that registration information, with the
5 exception of a sex offender's social security number, within a
6 reasonable period of time, and no later than seven days after
7 receiving the request.

8 D. Within seven days of receiving registration
9 information from a sex offender described in Subsection A of
10 this section, the county sheriff shall contact every licensed
11 daycare center, elementary school, middle school and high
12 school within a one-mile radius of the sex offender's residence
13 and provide them with the sex offender's registration
14 information, with the exception of the sex offender's social
15 security number.

16 E. The department of public safety may establish
17 and manage an internet web site that provides the public with
18 registration information regarding sex offenders described in
19 Subsection A of this section. The registration information
20 provided to the public pursuant to this subsection shall not
21 include a sex offender's social security number or a sex
22 offender's place of employment, unless the sex offender's
23 employment requires him to have direct contact with children.

24 F. DNA analysis information shall only be disclosed
25 pursuant to the provisions of Section 29-16-8 NMSA 1978."

. 145766. 1

underscored material = new
[bracketed material] = delete

1 Section 4. Section 29-16-6 NMSA 1978 (being Laws 1997,
2 Chapter 105, Section 6) is amended to read:

3 "29-16-6. COVERED OFFENDERS SUBJECT TO COLLECTION OF
4 SAMPLES. -- Each covered offender shall provide one or more
5 samples to the administrative center, as follows:

6 A. covered offenders convicted on or after [~~the~~
7 ~~effective date of the DNA Identification Act~~] July 1, 1997
8 shall provide a sample at any time before release from any
9 correctional facility or, if the covered offender is not
10 sentenced to incarceration, before the end of any period of
11 probation or other supervised release;

12 B. covered offenders incarcerated on [~~the effective~~
13 ~~date of the DNA Identification Act~~] July 1, 1997 shall provide
14 a sample at any time before release from any correctional
15 facility; [~~and~~]

16 C. covered offenders on probation or other
17 supervised release on [~~the effective date of the DNA~~
18 ~~Identification Act~~] July 1, 1997 shall provide a sample before
19 the end of any period of probation or other supervised release;
20 and

21 D. covered offenders who are registering or
22 renewing registration as a sex offender pursuant to Section
23 29-11A-4 NMSA 1978 on or after July 1, 2003 shall provide a
24 sample at the time of registration or renewal."

25 Section 5. EFFECTIVE DATE.--The effective date of the

. 145766. 1

underscoring material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

provisions of this act is July 1, 2003.

- 12 -